

Testimony of Jared Genser¹

Statement for the Record

Tom Lantos Human Rights Commission
U.S. Congress

“Judicial Independence in Central America”
June 9, 2021

An independent judicial system is a fundamental characteristic of societies that uphold human rights. The impartiality of these systems ensures justice for victims and accountability for perpetrators of crimes, including human rights violations and corruption. However, in recent years, we have seen the severe erosion of judicial independence in fragile democracies around the world, including in Central America. Throughout my 20-year career as an international human rights lawyer, I have seen firsthand how dictators manipulate judicial systems to threaten intimidate, harass, and arbitrarily detain their real or imagined opponents, often with grave implications for their human rights.

For example, in Nicaragua, Daniel Ortega has completely co-opted the justice system to serve his own interests and consolidate his autocratic rule in the country. Currently, there are more than 120 political prisoners in the country detained on pre-textual charges. Judges in Nicaragua often try to provide these detentions with a patina of legitimacy by going through the motions to make what are clearly political show trials appear real, but few are fooled.

As the U.S. State Department has observed in the *2020 Country Report on Human Rights Practices: Nicaragua*:

The law provides for an independent judiciary but the government did not respect judicial independence and impartiality. The law requires vetting of new judicial appointments by the Supreme Court of Justice, a process wholly influenced by nepotism, personal influence, and political affiliation . . . In cases against political activists, judges under the inducement of the ruling party handed down biased judgments, including adding jail time for crimes not presented by the prosecutor’s office.

Just yesterday, my pro bono client, Félix Maradiaga, a prominent Nicaraguan activist and presidential candidate, was beaten, detained, and disappeared by Nicaraguan security forces. The Nicaraguan Police sought to justify his detention by indicating he was under investigation for a series of outrageous charges, including inciting foreign interference in internal affairs, soliciting military interventions, and organizing acts of terrorism and destabilization with funding by external entities. These charges are patently false and politically motivated. In this

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case, Ortega has not yet even bothered to present Félix before a court, despite the requirements under the International Covenant on Civil and Political Rights that he must be presumed innocent and given the opportunity to challenge the lawfulness of his detention.

Given his fearless efforts to restore democracy and human rights to Nicaragua, Félix is no stranger to this kind of political persecution and has for years been a target of Daniel Ortega and his dictatorship, but this does not make yesterday's events any less shocking or appalling.

In recent weeks, Ortega has transparently and brazenly decapitated the political opposition by disqualifying all the leading candidates most likely to prevail in the opposition's presidential primary vote on August 2, 2021, including Cristiana Chamorro, Arturo Cruz, and now Félix. In the last week Chamorro was put under house arrest and Cruz was detained. Now Félix has been beaten and disappeared pending an investigation into bogus charges. After Félix was disappeared, security forces abducted another candidate, Juan Sebastián Chamorro. The winner of the primary, which includes other candidates with much less support in the polls, is slated to face Ortega in the presidential election on November 7, 2021 – but it is clear there can be no free or fair presidential elections in Nicaragua if the leading opposition candidates remain disqualified, detained, and disappeared.

By arresting and detaining Félix, his colleagues, and others he deems as threats, Ortega has shamelessly exploited Nicaragua's judicial system to eliminate systematically any challenges to his authority. The international community must unequivocally condemn this assault on Nicaragua's democracy. And it must work urgently to restore and fortify judicial independence and the rule of law in Nicaragua and Central America.

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